

**2004 - Revenue and Tax Senate Pending Fee Rule (Green)**

***ADMINISTRATIVE RULES REVIEW***

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***Legislative Session 2004***

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# **2004 - Revenue and Tax Senate Pending Fee Rule (Green)**

## **IDAPA 35 - STATE TAX COMMISSION**

### **35.01.02 - IDAHO SALES AND USE TAX ADMINISTRATIVE RULES**

#### **DOCKET NO. 35-0102-0303 - (FEE RULE)**

#### **NOTICE OF RULEMAKING - PENDING FEE RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 63-105, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any changes between the text of the proposed rule and text of the pending rule.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the September 3, 2003, Idaho Administrative Bulletin, Volume 03-9, pages 220 through 221.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 63-3623B, Idaho Code. Under this formula the fee will be increased to \$42, an increase proportional to the tax rate increase enacted by the Legislature with HB 400 in 2003. With this formula the fee will automatically be reduced to \$35 when the sales tax rate returns to 5%.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact James Husted, at (208) 334-7530.

DATED this 29th day of October, 2003.

James Husted, Tax Policy Specialist  
Idaho State Tax Commission  
800 Park Bl., Plaza IV  
P.O. Box 36  
Boise, ID 83722-0410

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## **IDAPA 35, TITLE 01, CHAPTER 02**

### **IDAHO SALES AND USE TAX ADMINISTRATIVE RULES**

**There are no substantive changes from the proposed rule text.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-9, September 3, 2003, pages 220 and 221.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.**

## **2004 - Revenue and Tax Senate Pending Fee Rule (Green)**

### **IDAPA 35 - STATE TAX COMMISSION**

#### **35.01.02 - IDAHO SALES AND USE TAX ADMINISTRATIVE RULES**

##### **DOCKET NO. 35-0102-0303 (FEE RULE)**

##### **NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 63-105, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 17, 2003.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

##### **Rule 109**

Section 63-3623B, Idaho Code, imposes a permit fee of \$35 per year per machine on the owners or operators of coin operated amusement devices. Subsection 63-3623B, Idaho Code, states: Such permit fee may be increased in a proportionate amount by the commission if the state sales tax rate increases.

The Tax Commission is proposing that the following formula is to be used to calculate the fee:  $\$700 \times \text{current tax rate}$ . At the 5% rate this formula would impose the \$35 fee specified in the statute.

Changes also include technical corrections that have been made.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased:

Under this formula the fee will be increased to \$42, an increase proportional to the tax rate increase enacted by the Legislature with HB 400 in 2003. With this formula the fee will automatically be reduced to \$35 when the sales tax rate returns to 5%.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the proposed changes are of a simple nature.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Jim Husted, at (208) 334-7530.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2003.

DATED this 31st day of July, 2003.

Jim Husted, Tax Policy Specialist  
Idaho State Tax Commission  
800 Park Blvd., Plaza IV  
P.O. Box 36  
Boise, ID 83722-0410

## 2004 - Revenue and Tax Senate Pending Fee Rule (Green)

### THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0102-0303

#### 109. AMUSEMENT DEVICES (Rule 109).

**01. Currency Operated Amusement Devices.** "Amusement device" means all currency or token operated machines and devices used for amusement or entertainment. This definition includes, but is not limited to, game machines; pool tables; jukeboxes; electronic games; video or cinematic viewing devices; crane, rotary, and pusher machines; and similar devices. It does not include vending machines that are used to sell tangible personal property or noncurrency operated machines or games described in Subsection 109.03 of this rule. (6-30-95)

**02. Requirement To Obtain Permit.** The owner or operator of amusement devices is required to obtain a seller's permit if he is making retail sales other than the use of currency or token operated amusement devices. If the owner or operator is not making such other retail sales, he need not obtain a seller's permit, but must obtain an amusement device permit for each device in service. (6-30-95)

**a.** ~~On or after~~ From July 1, 1995 to June 30, 2004, owners or operators of amusement devices ~~are~~ were required to pay a fee of thirty-five dollars (\$35) per machine in service or use. The fee for permits purchased for the year beginning July 1, 2004, is forty-two dollars (\$42). The fee will change by an amount proportional to any change in the sales tax rate. The formula to apply to calculate the permit fee is seven hundred dollars (\$700) x tax rate. For a six percent (6%) tax rate the amount is therefore seven hundred dollars (\$700) x six percent (6%) = forty-two dollars (\$42). ( )

**b.** Upon receiving the appropriate payment, the Tax Commission will issue to the owner or operator of one or more amusement devices, a permit for each such device in service. A separate permit on each device in service is required. The permit shall be affixed near the currency slot of the machine in such a manner that it is easily visible. Permits are transferable from one person to another after written notice of the transfer is received and acknowledged by the Tax Commission. Permits may be transferred from a machine that is no longer in service to another machine owned or operated by the same person. An amusement device permit is not valid unless the name and business address of the owner or operator is typed or printed in black ink on the face of the permit. ~~(7-1-98)~~( )

**bc.** Video amusement devices may have more than one (1) monitor and be designed to be operated independently by more than one (1) person. In such cases a separate permit is required for each monitor. (6-30-95)

**ed.** Amusement device permits must be renewed annually. Annual permits are valid from July 1 through June 30. Permits must be renewed on or before July 1 by the owner or operator of the amusement devices. Amusement devices acquired after July 1 or placed in service before the next July 1 will require the appropriate fee ~~for a full-year, thirty-five dollar (\$35) permit.~~ ~~(7-1-97)~~( )

**03. Noncoin Operated Amusement Machines Or Games.** Charges for the use of amusement machines or games which are not currency or token operated are subject to tax at the prevailing rate times one hundred percent (100%) of the gross proceeds received for the use of the device. This applies regardless of the method the owner or operator uses to determine the charge, such as by the hour or by the game. The owner or operator of noncurrency or nontoken operated amusement machines or games is required to obtain a seller's permit if he is charging for the use of such machines. (6-30-95)

**04. Cross-Reference.** See ~~Idaho Sales Tax Administrative~~ Rule 095 of these rules regarding purchases of Money-Operated Dispensing Equipment. ~~(6-23-94)~~( )

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